

**UNITED STATES DISTRICT COURT
DISTRICT OF MASSACHUSETTS**

Kevin Moitoso, Tim Lewis, Mary Lee Torline, and
Sheryl Arndt, individually and as representatives of
a class of similarly situated persons, and on behalf
of the Fidelity Retirement Savings Plan,

Plaintiffs,

v.

FMR LLC, the FMR LLC Funded Benefits
Investment Committee, the FMR LLC Retirement
Committee, Fidelity Management & Research
Company, FMR Co., Inc., and Fidelity Investments
Institutional Operations Company, Inc.,

Defendants.

Case No. 1:18-cv-12122-WGY

JOINT WAIVER OF USE OF ADVISORY JURY

In light of the Court having ruled on breach of duty issues in its ruling dated March 27, 2020, the nature and scope of the remaining issues to be tried, and considerations relating to COVID-19, Plaintiffs Kevin Moitoso, Tim Lewis, Mary Lee Torline, and Sheryl Arndt (“Plaintiffs”) and Defendants FMR LLC, the FMR LLC Funded Benefits Investment Committee, the FMR LLC Retirement Committee, Fidelity Management & Research Company, FMR Co., Inc., and Fidelity Investments Institutional Operations Company, Inc. (“Defendants”), by and through their attorneys, hereby jointly waive any right or entitlement to, and any request for the empanelment of, an advisory jury under the Court’s Order dated October 8, 2019 (ECF No. 173), and stipulate and agree that it is the parties’ joint view that a bench trial of this matter would be advisable without empaneling an advisory jury.

Respectfully Submitted,

Dated: April 30, 2020

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s/Kai Richter

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CERTIFICATE OF SERVICE

I hereby certify that on April 30, 2020, a true and correct copy of the foregoing was served by CM/ECF to the parties registered to the Court's CM/ECF system.

Dated: April 30, 2020

s/ Kai Richter
Kai Richter